

WORKSHEET FOR ASSESSMENT OF PENALTIES
DIVISION OF OIL, GAS & MINING
Minerals Regulatory Program

COMPANY / MINE United Stone and Design/ United Stone PERMIT M/047/0079
NOV / CO # MC-2008-59-01

ASSESSMENT DATE July 21, 2008

ASSESSMENT OFFICER Lynn Kunzler

I. HISTORY (Max. 25 pts.) (R647-7-103.2.11)

- A. Are there previous violations, which are not pending or vacated, which fall within three (3) years of today's date?

PREVIOUS VIOLATIONS	EFFECTIVE DATE	POINTS (1pt for NOV 5pts for CO)
<u>MC 06-03-07</u>	<u>August 2, 2007</u>	<u>5</u>
_____	_____	_____

TOTAL HISTORY POINTS 5

II. SERIOUSNESS (Max 45pts) (R647-7-103.2.12)

NOTE: For assignment of points in Parts II and III, the following apply:

1. Based on facts supplied by the inspector, the Assessment Officer will determine within each category where the violation falls.
2. Beginning at the mid-point of the category, the Assessment Officer will adjust the points up or down, utilizing the inspector's and operator's statements as guiding documents.

Is this an EVENT (A) or Administrative (B) violation? Event
(assign points according to A or B)

A. EVENT VIOLATION (Max 45 pts.)

1. What is the event which the violated standard was designed to prevent?

Environmental Harm, Damage to Property, Reduced Reclamation Potential

2. What is the probability of the occurrence of the event which a violated standard was designed to prevent?

<u>PROBABILITY</u>	<u>RANGE</u>
None	0
Unlikely	1-9
Likely	10-19
Occurred	20

ASSIGN PROBABILITY OF OCCURRENCE POINTS 10

PROVIDE AN EXPLANATION OF POINTS:

*** *An Operator is required to file a notice of intention to commence mining operations and provide a reclamation surety with the Division of Oil Gas and Mining prior to conducting mining operations. The operator was approved for a payment plan for his surety, and has defaulted on payments. Less than ½ the required surety has been provided. If the operator defaulted, The Division would not have sufficient funds to reclaim the entire site. Points assigned at low end of 'likely' since the operator has defaulted twice on his payment plan, it is considered likely he would default on his reclamation responsibility*

3. What is the extent of actual or potential damage? RANGE 0-25

In assigning points, consider the duration and extent of said damage or impact, in terms of area and impact on the public or environment.

ASSIGN DAMAGE POINTS 13

PROVIDE AN EXPLANATION OF POINTS:

*** *The permit area has already been disturbed. The Division has less than ½ the surety needed to reclaim the site. With the surety, more than ½ of the area would potentially not be reclaimed. Since 'actual damage' has not occurred but the potential is considered likely, points were assigned at mid-point in the range.*

B. ADMINISTRATIVE VIOLATIONS (Max 25pts)

1. Is this a POTENTIAL or ACTUAL hindrance to enforcement? NA
RANGE 0-25

Assign points based on the extent to which enforcement is actually or potentially hindered by the violation.

ASSIGN HINDRANCE POINTS N/A

PROVIDE AN EXPLANATION OF POINTS:

TOTAL SERIOUSNESS POINTS (A or B) 23

III. DEGREE OF FAULT (Max 30 pts.) (R647-7-103.2.13)

- A. Was this an inadvertent violation which was unavoidable by the exercise of reasonable care? IF SO--NO NEGLIGENCE; or, was this a failure of a permittee to prevent the occurrence of a violation due to indifference lack of diligence, or lack of reasonable care, the failure to abate any violation due to the same or was economic gain realized by the permittee? IF SO--GREATER DEGREE OF FAULT THAN NEGLIGENCE.

No Negligence	0
Negligence	1-15
Greater Degree of Fault	16-30

STATE DEGREE OF NEGLIGENCE Negligence

ASSIGN NEGLIGENCE POINTS 12

PROVIDE AN EXPLANATION OF POINTS:

*** *The inspector indicated that the operator has defaulted twice on his payment plan. After the first default, the operator met with DOGM and provided a second date by which he would have the surety posted. The Operator had stated his intent to provide surety, but has failed to do so. Mining has been occurring for at least the last two years. This indicates indifference to the rules or lack of reasonable care. A prudent operator would understand the need to provide adequate surety. No contact was made to the Division, to request additional time due to hardship. Points are assigned it midpoint of the upper half of the Negligence range.*

IV. GOOD FAITH (Max 20 pts.) (R467-7-103.2.14)

(Either A or B) (Does not apply to violations requiring no abatement measures)

- A. Did the operator have onsite, the resources necessary to achieve compliance of the violated standard within the permit area?

IF SO--EASY ABATEMENT

Easy Abatement Situation

X	Immediate Compliance	-11 to -20*
	(Immediately following the issuance of the NOV)	
X	Rapid Compliance	-1 to -10
	(Permittee used diligence to abate the violation)	
X	Normal Compliance	0
	(Operator complied within the abatement period required)	
	(Operator complied with condition and/or terms of approved Mining and Reclamation Plan)	

*Assign in upper or lower half of range depending on abatement occurring the 1st or 2nd half of abatement period.

- B. Did the permittee not have the resources at hand to achieve compliance, or does the situation require the submission of plans prior to physical activity to achieve compliance?

IF SO--DIFFICULT ABATEMENT

Difficult Abatement Situation

- | | | |
|---|---|-------------|
| X | Rapid Compliance | -11 to -20* |
| | (Permittee used diligence to abate the violation) | |
| X | Normal Compliance | -1 to -10* |
| | (Operator complied within the abatement period required) | |
| X | Extended Compliance | 0 |
| | (Permittee took minimal actions for abatement to stay within the limits of the NOV or the violated standard of the plan submitted for abatement was incomplete) | |
| | (Permittee complied with conditions and/or terms of approved Mining and Reclamation Plan) | |

EASY OR DIFFICULT ABATEMENT? _____

ASSIGN GOOD FAITH POINTS ____

PROVIDE AN EXPLANATION OF POINTS:

*** *The abatement for this violation has not been completed yet so good faith points cannot be assigned. The assignment of good faith can occur once the abatement requirements have been met and is contingent upon the Operator's diligence in achieving compliance. This area will be evaluated again upon termination of the Cessation Order.*

V. ASSESSMENT SUMMARY (R647-7-103.3)

NOTICE OF VIOLATION # <u>MC-06-03-07-01</u>	
I.	TOTAL HISTORY POINTS <u>5</u>
II.	TOTAL SERIOUSNESS POINTS <u>23</u>
III.	TOTAL NEGLIGENCE POINTS <u>12</u>
IV.	TOTAL GOOD FAITH POINTS <u>0</u>
	TOTAL ASSESSED POINTS <u>40</u>
	TOTAL ASSESSED FINE <u>\$ 2,200</u>